

September 14, 2021

**VIA ECF**

Honorable Edward S. Kiel, U.S.M.J.  
United States District Court, District of New Jersey  
United States Post Office & Courthouse  
Federal Square, Courtroom 8  
Newark, New Jersey 07101

Re: ***Joint Status Conference Letter***  
*In re Zytiga Litigation*  
Master Docket No. 19-12107(KM)(ESK)  
*All Actions*

Dear Judge Kiel:

As requested by the Court, counsel for the parties to these actions provide this joint letter to advise of the status of these cases, particularly with regard to discovery related to the underlying patent litigations and to request another status conference in the fall.

**A. Status of discovery.**

**1. Initial discovery—*Qui tam* and End-Payor class action.**

*Party discovery.* On August 11, 2021, pursuant to the operative Order concerning initial discovery entered July 8, 2021 (ECF No. 158, the “Initial Discovery Schedule”), the defendants began rolling productions of certain initial discovery identified in paragraph c. of the Initial Discovery Schedule, which include documents from the underlying patent litigations, patent prosecution files as to certain patents, and other documents concerning the relevant patent filings. To date, the defendants have made six productions, totaling over 51,800 documents and 4.9 million pages.

*Non-party discovery.* Many of the materials produced in the underlying patent infringement actions were produced by the generic drug manufacturer defendants in those cases. The parties have contacted those entities, requesting their consent for the defendants to reproduce here the materials the non-party generic manufacturers produced in the underlying patent infringement cases. Thus far, two of those non-parties have consented, though particulars about confidentiality designations still need to be worked out with one of those two. Discussions with those non-party generic manufacturers that have not yet consented are ongoing and the parties are optimistic that those consent issues will be resolved in time for the defendants to reproduce those documents before the October 24, 2021 deadline (in the same format produced in the underlying litigation, pursuant to the ESI protocol, ECF No. 160). To the extent necessary, the non-party generic manufacturers may seek a protective order, or the parties in this case may seek Court intervention regarding the non-party generic manufacturers’ documents.

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**2. Direct purchaser class action discovery.**

Pursuant to the Court's May 19, 2021 Order, discovery has been stayed in the direct purchaser action pending further order of the Court on motions to dismiss and/or compel arbitration, which were filed on April 6, 2021 and fully briefed as of June 7, 2021.

**3. Protective Order (ECF No. 162).**

The Court adopted the plaintiffs' version of disputed paragraph 19 in the discovery confidentiality order and entered the discovery confidentiality order on August 11, 2021 (ECF No. 151-1). The Court's text order indicated that "[t]he matter will be discussed further at the telephone status conference currently scheduled for September 17, 2021 at 2:00 p.m." The parties will be prepared to discuss the discovery confidentiality order, to the extent necessary, during the upcoming conference.

**B. Scheduling the next status conference.**

The parties believe it would be prudent to schedule a status conference following the completion of initial discovery in the event that any issues related to that discovery, or any other matter that may develop in the interim, need be addressed by the Court.

We propose late November or early December and will be prepared to discuss further scheduling with the Court during the status conference.

Respectfully yours,

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